

REMARKS

Claims 1, 2, 4, 5, 10, 12, and 17-21 are pending in this application after entry of the present amendment. Claims 1 and 5 have been amended as discussed below. New claims 20-25 have been added. Support for the new claims can be found on page 22 of the specification, third full paragraph (paragraph 0086 of the published application).

§ 112, First Paragraph Rejection- Written Description

Claim 1-2, 4-5, 10, 12 and 17-19 were rejected under 35 U.S.C. § 112, first paragraph, for lack of written description. Specifically, the Examiner is of the opinion that the hybridization language present in the claims is not clearly supported by the specification. Applicant believes that this language is adequately supported as set forth in the previous response. However, in the interest of expediting prosecution, Applicant has removed language regarding hybridization of the nucleic acids.

Applicant thanks the Examiner for his brief remarks and clarification of the pending rejections in a phone conference with the undersigned on March 31, 2005. As per the Examiner's suggestion, Applicant has amended the claims to recite that the claimed nucleic acids have at least 95% or 98% sequence identity to the nucleic acid sequence of SEQ ID NO: 1 or SEQ ID NO: 3. The specification provides clear support for claims reciting the specified identities at page 22, third full paragraph (paragraph 0086 of the published application).

Applicant respectfully submits that amended Claim 1, and Claims 2, 4, and 17 dependent thereon, and amended Claim 5, and Claims 10, 12, 18 and 19 dependent thereon, satisfy the requirements of 35 U.S.C. § 112, first paragraph and requests removal of this rejection.

§ 112, Second Paragraph Rejection

Claim 1 and 5 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which the applicant regards as the invention. Specifically, the Examiner is of the opinion that the claims are vague and indefinite due to the recitation of high stringency hybridization conditions. While the Applicant believes that one of skill in the art would understand what is meant by high stringency conditions, the claims have been amended to remove reference to high stringency conditions.

Applicant respectfully submits that amended Claim 1 and Claim 5 satisfy the requirements of 35 U.S.C. § 112, second paragraph and requests removal of this rejection.


CONCLUSION

Applicant respectfully submits that the claims are now in condition for allowance and an early notification of such is solicited. In any event, Applicant respectfully requests entry of the above-noted claim amendments in order to place the claims in better condition for appeal, should the Examiner determine that obstacles to patentability and allowance still remain.

Please direct any calls in connection with this application to the undersigned at (415) 781-1989.

Respectfully submitted,
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